
By: **Delegates Benson, Donoghue, Kach, Morhaim, and ~~V. Turner~~ V. Turner,
and Hurson**

Introduced and read first time: February 6, 2004
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 27, 2004

CHAPTER _____

1 AN ACT concerning

2 **~~Health Occupations – Morticians – Licensing – Corporations and Limited~~**
3 **~~Liability Companies~~**
4 **Task Force to Study Funeral Establishment Licensing**

5 FOR the purpose of ~~authorizing the Maryland State Board of Morticians to issue a~~
6 ~~license to operate a mortuary science business and a funeral establishment~~
7 ~~license to certain corporations and limited liability companies; repealing certain~~
8 ~~restrictions on the issuance and renewal of certain licenses; altering and~~
9 ~~establishing certain requirements for the renewal of a license to operate a~~
10 ~~mortuary science business to a corporation or limited liability company;~~
11 ~~requiring that certain information be included in an application made by a~~
12 ~~corporation or limited liability company for the issuance or renewal of a license~~
13 ~~to operate a mortuary science business; establishing a certain limitation on the~~
14 ~~authority of a limited liability company to operate a mortuary science business;~~
15 ~~requiring that if a limited liability company is sold, declares bankruptcy, or~~
16 ~~ceases to operate, a certain written notice must be submitted to certain persons;~~
17 ~~requiring an application for a funeral establishment license submitted by a~~
18 ~~corporation or limited liability company to be signed by certain persons;~~
19 ~~requiring the Board to issue a license to a funeral establishment that is owned~~
20 ~~or operated by at least one licensed mortician or one licensed funeral director, a~~
21 ~~holder of a surviving spouse or corporation license, or limited liability company;~~
22 ~~and generally relating to the issuance of corporation licenses and funeral~~
23 ~~establishment licenses to corporations and limited liability companies.~~
24 establishing the Task Force to Study Funeral Establishment Licensing;
25 providing for the composition, staffing, and compensation of the members of the
26 Task Force; requiring the Task Force to review and assess certain items related
27 to the licensing of funeral establishments; requiring the Task Force to submit a

1 certain report to the Governor and the General Assembly on or before a certain
 2 date; providing for the termination of this Act; and generally relating to the Task
 3 Force to Study Funeral Establishment Licensing.

4 ~~BY repealing and reenacting, with amendments,~~
 5 ~~Article Health Occupations~~
 6 ~~Section 7-309 and 7-310~~
 7 ~~Annotated Code of Maryland~~
 8 ~~(2000 Replacement Volume and 2003 Supplement)~~

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 10 MARYLAND, That ~~the Laws of Maryland read as follows:~~

11 (a) There is a Task Force to Study Funeral Establishment Licensing.

12 (b) The Task Force consists of the following members:

13 (1) two Senators who are members of the Education, Health, and
 14 Environmental Affairs Committee, appointed by the President of the Senate;

15 (2) ~~two Delegates who are members~~ one Delegate who is a member of the
 16 Health and Government Operations Committee, appointed by the Speaker of the
 17 House; and

18 (3) one Delegate who is a member of the Economic Matters Committee
 19 appointed by the Speaker of the House; and

20 ~~(3)~~ (4) the following ~~nine~~ ten members appointed by the Governor:

21 (i) one representative of the Maryland State Funeral Directors
 22 Association;

23 (ii) one representative of the Funeral Directors and Morticians
 24 Association of Maryland;

25 (iii) one representative of the Maryland Free State Cemetery and
 26 Funeral Association;

27 (iv) one representative of the State Board of Morticians;

28 (v) one representative of the Office of Cemetery Oversight;

29 ~~(v)~~ (vi) one representative of corporate-owned funeral
 30 establishments;

31 ~~(vi)~~ (vii) one representative of the cemetery industry;

32 ~~(vii)~~ (viii) one attorney with expertise in corporate and business law;

33 ~~(viii)~~ (ix) one business owner; and

1 ~~(ix)~~ (x) one member of the general public.

2 (c) The Governor shall designate the chairman of the Task Force.

3 (d) The Department of Legislative Services and the Attorney General's Office
4 from the Anti-trust Division shall provide staff for the Task Force.

5 (e) A member of the Task Force:

6 (1) may not receive compensation; but

7 (2) is entitled to reimbursement for expenses under the Standard State
8 Travel Regulations, as provided in the State budget.

9 (f) The Task Force shall:

10 (1) review and develop options for the licensing of funeral
11 establishments in the State;

12 (2) assess the forms of ownership of funeral home licenses, including:

13 (i) corporations;

14 (ii) professional associations;

15 (iii) partnerships; and

16 (iv) sole proprietorships;

17 (3) assess the forms of licensing funeral professionals in other states;

18 (4) assess whether ownership of a funeral home by a limited liability
19 corporation provides adequate safeguards to protect Maryland consumers;

20 (5) determine whether the injunctive power of the State Board of
21 Morticians should be strengthened;

22 (6) review the current composition of the State Board of Morticians,
23 including the ratio of practitioners to consumer members; and

24 (7) propose legislative, regulatory, and other changes required to
25 implement the recommendations of the Task Force.

26 (g) The Task Force shall report its findings and recommendations to the
27 Governor and, in accordance with § 2-1246 of the State Government Article, the
28 General Assembly, on or before December 31, 2004.

Article—Health Occupations

2 ~~7-309.~~

3 (a) ~~[Except as otherwise provided by law, a corporation may not operate a~~
4 ~~mortuary science business and the] THE Board may [not] issue a license to [or] AND~~
5 ~~list [any] A corporation OR LIMITED LIABILITY COMPANY as licensed to operate a~~
6 ~~mortuary science business.~~

7 (b) ~~The Board may renew [only] the license of a corporation OR LIMITED~~
8 ~~LIABILITY COMPANY that:~~

9 (1) ~~[On June 1, 1945, held] HOLDS a license issued by this State;~~

10 (2) ~~Has [been renewed] continuously RENEWED THE LICENSE since~~
11 ~~[that] THE date THE LICENSE WAS ISSUED;~~

12 (3) ~~Submits an application on a form required by the Board; and~~

13 (4) ~~Pays a fee set by the Board.~~

14 (c) ~~Each application for ISSUANCE OR renewal OF A LICENSE made by a~~
15 ~~corporation OR LIMITED LIABILITY COMPANY shall state the name and address of~~
16 ~~each officer and director of the corporation OR EACH MANAGING MEMBER OF THE~~
17 ~~LIMITED LIABILITY COMPANY.~~

18 (d) ~~While a corporation OR LIMITED LIABILITY COMPANY license is effective, it~~
19 ~~authorizes a corporation OR LIMITED LIABILITY COMPANY to operate a mortuary~~
20 ~~science business only if any practice of mortuary science that is conducted for the~~
21 ~~corporation OR LIMITED LIABILITY COMPANY is practiced by a licensed individual.~~

22 (e) ~~A corporation may not operate a branch funeral establishment unless the~~
23 ~~branch funeral establishment was in operation on or before October 1, 1964.~~

24 (f) ~~If a corporation OR LIMITED LIABILITY COMPANY is sold, declares~~
25 ~~bankruptcy, or ceases to operate, written notice must be submitted to:~~

26 (1) ~~The Board, within 2 weeks of the occurrence, detailing the changes~~
27 ~~and the arrangements for carrying out the pre-need contracts and disbursement of~~
28 ~~the money held in escrow; and~~

29 (2) ~~The holders of pre-need contracts advising them of their options~~
30 ~~under Maryland law.~~

31 ~~7-310.~~

32 (a) (1) ~~A funeral establishment shall be licensed by the Board before the~~
33 ~~establishment may be used for the preparation of the remains, viewing, and~~
34 ~~conducting of services.~~

1 (2) The licensee may be restricted to operations as determined by the
2 Board.

3 (b) (1) To apply for a funeral establishment license, an applicant shall:

4 (i) Submit an application to the Board on the form that the Board
5 requires; and

6 (ii) Pay to the Board an application fee set by the Board.

7 (2) An application for a funeral establishment license shall be signed
8 [by]:

9 (I) BY a licensed individual who is not an apprentice but is the
10 owner or co owner of the establishment to be licensed; OR

11 (II) IF THE APPLICANT IS A CORPORATION, BY AN OFFICER OR
12 DIRECTOR OF THE CORPORATION AND THE LICENSED INDIVIDUAL WHO IS NOT AN
13 APPRENTICE BUT WILL BE RESPONSIBLE FOR THE PRACTICE OF ANY MORTUARY
14 SCIENCE THAT IS CONDUCTED FOR THE CORPORATION; OR

15 (III) IF THE APPLICANT IS A LIMITED LIABILITY COMPANY, BY EACH
16 MANAGING MEMBER OF THE LIMITED LIABILITY COMPANY AND THE LICENSED
17 INDIVIDUAL WHO IS NOT AN APPRENTICE BUT WILL BE RESPONSIBLE FOR THE
18 PRACTICE OF ANY MORTUARY SCIENCE THAT IS CONDUCTED FOR THE LIMITED
19 LIABILITY COMPANY.

20 (e) The Board shall issue a funeral establishment license to a funeral
21 establishment that:

22 (1) Has complied with all applicable State and local laws;

23 (2) Will be owned [and] OR operated in accordance with this title by at
24 least one licensed mortician or one licensed funeral director, [or] a holder of a
25 surviving spouse or corporation license, OR LIMITED LIABILITY COMPANY; and

26 (3) Will be held responsible for any and all activities performed on the
27 premises.

28 (d) Signs and advertisements of a funeral establishment shall display the
29 name that appears on the establishment license.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
31 effect ~~October~~ July 1, 2004. It shall remain effective for a period of 6 months and, at
32 the end of December 31, 2004, with no further action required by the General
33 Assembly, this Act shall be abrogated and of no further force and effect.

